

REMARKS

Claims 27-52 are pending in the application.

Claims 27-52 are rejected.

A 37 C.F.R. 1.131 declaration is submitted, removing one of the cited references, and therefore making the claim rejections moot. All pending claims are in proper form for immediate allowance and no new matter has been added.

Responses to Rejections to Claims – 35 U.S.C. §102

Claims 27-41 and 46-51 are rejected under 35 U.S.C. 102(e) as being anticipated by Lai et al (U.S. Patent Publication No. 2004/0193648) (Lai hereinafter). Applicants can find no specific reference to claim 52 in the Office Action, and respectfully assume that claim 52 was also rejected under 35 U.S.C. 102(e).

The Lai publication was filed on August 20, 2003 and was published on September 30, 2004. Lai is a continuation-in-part of US Application No. 10/465,805, filed on June 20, 2003 and issued as US Patent 6,888,477 on May 3, 2005 (the '477 patent), which is a continuation of US Application No. 10/141,966, filed on May 10, 2002, now US Patent 6,593,860 (the '860 patent), which is a continuation of US Application No. 09/742,294, filed on December 22, 2000, now US Patent 6,407,680 (the '680 patent).

The present invention was filed on January 26, 2001. Applicants respectfully point out that it is a continuation reference that always receives the benefit of a filing date of its parent, and not a continuation-in-part reference. As a continuation-in-part application, the Lai publication includes a substantial amount of new matter not included in the Lai '477 patent and therefore is an improper reference under 35 U.S.C. 102. Thus the Lai publication cannot rely on the filing date of the parent application filed on December 22, 2000, (the '680 patent), unless the invention is described in the '680 patent. Thus, the claimed invention must be described in the '680 patent.

Assuming, for the sake of argument, that Lai was entitled to the filing date of the '680 patent, Lai would still not be proper prior art. The present invention was disclosed prior to December 22, 2000, and a patent application was filed with the U.S. Patent and Trademark Office on January 26, 2001, only a few weeks after the earliest priority date of the '680 patent. According to MPEP 715.07III, an applicant can establish prior invention of the claimed subject matter by showing "(C) conception of the invention prior to the effective date of the reference coupled with due diligence from prior to the reference date to the filing date of the application

(constructive reduction to practice)." Applicants are submitting a declaration with this response under 37 C.F.R. § 1.131 and accompanying documentation to establish conception and diligence, as allowed by MPEP 715, to remove the rejection using Lai as a reference. Entry of the attached declaration under 37 C.F.R. § 1.131 is respectfully requested. In light of the declaration, any rejection using the Lai reference fails and should be withdrawn, even if the Lai reference was entitled to the benefit of the filing date of the '680 patent. Therefore, the rejection of claims 27-41 and 46-52 fails and should be withdrawn.

Responses to Rejections to Claims – 35 U.S.C. §103

Claims 42-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lai et al (U.S. Patent Publication No. 2004/0193648) (Lai hereinafter) in view of John C. Platt (U.S. Patent No. 6,987,221) (Platt hereinafter).

In light of the 37 C.F.R. § 1.131 declaration described above, Lai is an improper reference and therefore all rejections using Lai fail. Therefore the rejection of claims 42-45 fails and should be withdrawn.

In view of all of the above, the allowance of claims 27-52 is respectfully requested.

Respectfully submitted,


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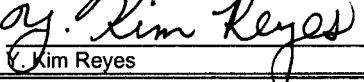
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